

## § 537.101

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; sec 570, Pub. L. 104–208, 110 stat. 3009–166; E.O. 13047, 61 FR 28301, 3 CFR, Comp., p. 202.

SOURCE: 63 FR 27847, May 21, 1998, unless otherwise noted.

### Subpart A—Relation of This Part to Other Laws and Regulations

#### § 537.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

### Subpart B—Prohibitions

#### § 537.201 Prohibited new investment by U.S. persons.

Except to the extent provided in regulations, orders, directives, or licenses that may be issued in conformity with section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208)(the “Act”), new investment in Burma by United States persons is prohibited.

NOTE TO § 537.201: Section 570 of the Act provides that the prohibition contained in this section may be waived, temporarily or permanently, by the President if he deter-

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mines and certifies to Congress that the application of this sanction would be contrary to the national interests of the United States. Licenses are thus not available for purposes of authorizing transactions prohibited under this section in the absence of such a waiver determination and certification to Congress.

#### § 537.202 Prohibited approval or other facilitation by a U.S. person of a foreign person’s investment.

Except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part, any approval or other facilitation by a United States person, wherever located, of a transaction by a foreign person where the transaction would constitute prohibited new investment in Burma under this part if engaged in by a United States person or within the United States is prohibited.

#### § 537.203 Evasions; attempts; conspiracies.

Except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part, any transaction by a United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited.

#### § 537.204 Exempt transactions.

Nothing in this part shall be construed to prohibit the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology, except:

(a) Where the entry into such a contract on or after the effective date is for the general supervision and guarantee of another person’s performance of a contract for the economic development of resources located in Burma; or

(b) Where such contract provides for payment, in whole or in part, in:

(1) Shares of ownership, including an equity interest, in the economic development of resources located in Burma; or

(2) Participation in royalties, earnings, or profits in the economic development of resources located in Burma.

NOTE TO § 537.204: The term *economic development of resources located in Burma* is defined

in § 537.301 to exclude not-for-profit educational, health or other humanitarian programs or activities.

### Subpart C—General Definitions

#### § 537.301 Economic development of resources located in Burma.

The term *economic development of resources located in Burma* shall not be construed to include not-for-profit educational, health, or other humanitarian programs or activities.

#### § 537.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EDT, May 21, 1997.

#### § 537.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

#### § 537.304 Foreign person.

The term *foreign person* means any citizen or national of a foreign state or any entity not organized under the laws of the United States.

#### § 537.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

#### § 537.306 Government of Burma.

The term *Government of Burma* includes:

- (a) The state and the Government of Burma, as well as any political subdivision, agency, or instrumentality thereof;
- (b) Any entity owned or controlled directly or indirectly by the foregoing.

#### § 537.307 License.

Except as otherwise specified, the term *license* means any license or authorization contained in this part, or issued pursuant to the authority of this part under procedures set forth in this part or in subpart C of part 501 of this chapter.

#### § 537.308 New investment.

The term *new investment* means any of the following activities, if such an

activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after the effective date:

(a) The entry into a contract that includes the economic development of resources located in Burma;

(b) The entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(c) The purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(d) The entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation.

#### § 537.309 Nongovernmental entity in Burma.

The term *nongovernmental entity in Burma* means a partnership, association, trust, joint venture, corporation, or other organization, wherever organized, that is located in Burma or exists for the exclusive or predominant purpose of engaging in the economic development of resources located in Burma or derives its income predominantly from such economic development, and is not the Government of Burma.

#### § 537.310 Person.

The term *person* means an individual or entity.

#### § 537.311 Resources located in Burma.

The term *resources located in Burma* means any resources, including natural, agricultural, commercial, financial, industrial and human resources, located within the territory of Burma, including the territorial sea, or located within the exclusive economic zone or continental shelf of Burma.

#### § 537.312 Specific license.

The term *specific license* means any license or authorization not set forth in